IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 10716 of 2004

Between:

Boyini Malleshwari
W/o.Venkateshwar Rao
Hindu, aged about 45 years,
Occ:Agriculture, R/o.Urimi Village,
Pedana Mandal, Krishna District.

..... PETITIONER

AND

1 District Collector, Machilipatnam, District Krishna.
2 Revenue Divisional Officer, Machilipatnam, Dist: Krishna.
3 Mandal Revenue Officer, Machilipatnam, District Krishna.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the actions of the respondents are illegal, arbitrary and unconstitutional and direct the respondents to repair the petition scheduled lands in Sy.No. R.S.No. 49/2 admeasuring Ac. 3-85 cents to enable the Petitioner to cultivate the said lands.

For the Petitioner:MR.KOMIREDDY KRISHNAVIJAY AZAD, Adovacate

For the Respondents:GP FOR REVENUE

The Court at the stage of admission made the Following :

ORDER:

The present writ petition is filed seeking a direction to the respondents to repair the petition scheduled lands in Survey No.49/2 admeasuring Ac.3.85 cents to enable the petitioner to cultivate the said lands.

The petitioner claims to be owner of the subject land having purchased the same under a registered sale deed dated 31-3-2001. It is stated that from the date of purchase the petitioner and his family members are in possession of the scheduled land and cultivating the same without any interruption. While so, it is stated that on a complaint of one Mir Inayath Ali alleging that the petitioner has encroached upon the burial ground, the Mandal Revenue Officer has issued an urgent notice vide M.S./2003 dated 15-2-2003 directing the petitioner to appear before him on 22-2-2003 at 11-00 a.m. along with documents to prove his title over the subject land. Questioning the said notice, the petitioner filed W.P.No. 6631 of 2003 and the same was disposed of by order dated 16-4-2003 directing the Mandal Revenue Officer to conduct the enquiry expeditiously and to take a decision in accordance with law. It is stated that the first respondent vide proceedings dated 22-10-2003 directed the third respondent to hand over the possession of the petitioner and the same was handed over to the petitioner on 4-2-2004. That the petitioner has made several representations to the respondents to issue passbooks and also issued a legal

notice on 22-2-2004. The petitioner alleges that the third respondent has destroyed the subject land and not taking any steps to get the same repaired.

Learned counsel for petitioner submitted that the petitioner is absolute owner of the subject land and cultivating the same and the respondents caused loss to petitioner by destroying the said land. It is thus contended that the loss suffered by the petitioner has to be compensated.

Heard learned counsel for petitioner and learned Government Pleader.

The only grievance of the petitioner in this writ petition is that he being the absolute owner of the subject land was not allowed to cultivate the same and that the said land was destroyed by the respondents and the loss so caused to him should be compensated.

Whether the third respondent has not allowed the petitioner to cultivate the subject land or caused any damage to the same, are pure questions of fact, which cannot be agitated before this Court under Article 226 of the Constitution of India. If any loss or damage is caused to the petitioner, the proper remedy open for the petitioner is to approach the competent Civil Court seeking appropriate relief.

For the above reasons, the writ petition fails and the same is dismissed at the stage of admission.

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N.V.RAMANA, J

Dt. 30th June , 2004

Lsk/tvk

To

1 The District Collector, Machilipatnam, District Krishna.
2 The Revenue Divisional Officer, Machilipatnam, Dist: Krishna.
3 The Mandal Revenue Officer, Machilipatnam, District Krishna.
4.. 2CCs to G.P. for Revenue, High court of A.P., Hyd
5 .2CD copies

*Form-NIC-OGS/WP{**AVLR**}*

THE HON'BLE MR JUSTICE N.V. RAMANA

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Dated: 30th June, 2004